

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

 $\nabla^*$ 

Case No.: 2:09-cv-01981-PMP-LRL

**VS.**

Defendant.

COMES NOW Defendant, AMERICAN MEDICAL SYSTEMS, INC., by and through its attorneys, Alverson Taylor, Mortensen & Sanders, and submits this Errata to the Stipulation and Order Extending Dates in the Scheduling Order, which inadvertently indicated that “[t]he current discovery cut off be continued through and including January 3, 2010, and any discovery extension request shall be due on or before December 14, 2010.” (See p. 3 lns. 3-4, Stip. and Order attached hereto as **Exhibit “A”**) (emphasis added). As January 3, 2010 is in the past, the Order would not flow chronologically, or adhere to the Court’s scheduling guidelines, it is apparent that the Order should have indicated that the discovery deadline in this matter would be January 3, 2011, not 2010.

111

As such, and by way of clarification, Defendant AMERICAN MEDICAL SYSTEMS, INC. and Plaintiff CAROL AUSTIN-FINK hereby petition the Court to take note of and authorize via signature this Errata confirming that discovery is extended until January 3, 2011.

DATED this 29<sup>th</sup> day of July, 2010.

DATED this 29<sup>th</sup> day of July, 2010

ALVERSON, TAYLOR, MORTENSEN  
& SANDERS

MURPHY, SMALL & ASSOCIATES

By 

By 

LEANN SANDERS, ESQ.  
Nevada Bar No.: 000390  
JENNIFER KISSEL-MORALES, ESQ.  
Nevada Bar No.: 008378  
7401 West Charleston Boulevard  
Las Vegas, NV 89117-1401  
*Attorneys for Defendants*  
AMERICAN MEDICAL SYSTEMS,  
INC.

PATRICK J. MURPHY, ESQ.  
Nevada Bar No.: 001222  
MICHAEL R. SMALL, ESQ.  
Nevada Bar No.: 007519  
1100 East Bridger Avenue  
Las Vegas, NV 89101  
*Attorneys for Plaintiff*

**ORDER**

**IT IS SO ORDERED.**

DATED this 10th day of August, 2010.



U.S. MAGISTRATE JUDGE

///

///

///

///

\*\*\*\*\*  
\*\*\* RX REPORT \*\*\*  
\*\*\*\*\*

RECEPTION OK

TX/RX NO	7593
RECIPIENT ADDRESS	7022594748
DESTINATION ID	
ST. TIME	07/29 09:37
TIME USE	01'01
PGS.	2
RESULT	OK

Patrick J. Murphy, Esq.  
Nevada Bar No. 1222  
Michael R. Small, Esq.  
Nevada Bar No. 7519  
MURPHY, SMALL & ASSOCIATES  
1100 East Bridger Avenue  
Las Vegas, Nevada 89101-5315  
Telephone: (702) 259-4600  
Facsimile: (702) 259-4748  
[debbie@patrickmurphyllaw.com](mailto:debbie@patrickmurphyllaw.com)  
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CAROL S. AUSTIN-FINK,

Plaintiff,

vs.

AMERICAN MEDICAL SYSTEMS, INC.,  
a Delaware corporation; DOES 1 through  
10, inclusive,

Defendants.

Case No.: 2:09-cv-01981-PMP-LRL

**STIPULATION AND ORDER TO EXTEND DATES IN SCHEDULING ORDER**  
**(SPECIAL SCHEDULING REVIEW REQUESTED)**  
**(SECOND REQUEST BEFORE THIS COURT)**

The Parties, by and through their undersigned counsel of record, hereby stipulate to amend the Court's Order to Extend Dates in Scheduling Order of March 12, 2010, by extending the October 1, 2010 discovery deadline for an additional 90 days (including the dates for disclosures as specified in FRCP 26(a)(2)).

Plaintiff's deposition was previously scheduled for May 26, 2010, and at the request of defense counsel her deposition was vacated and rescheduled for July 8, 2010. Plaintiff's counsel

JS  
R&A  
18349  
JH

1 subsequently advised defense counsel that Plaintiff would be in the process of moving during  
2 that time period to Arizona. The Defendant has agreed to vacate the deposition scheduled for  
3 July 8, 2010 and to reschedule it for sometime in August or September, 2010. Defense counsel  
4 is also vacating the deposition of Plaintiff's treating physician, Jeff Zapinsky, M.D., currently  
5 scheduled for July 26, 2010, in order that they may take the Plaintiff's deposition first. Plaintiff  
6 is also in the process completing her supplements to written discovery. This is the Second  
7 Request to extend the discovery deadlines in the Discovery Plan and Scheduling Order.  
8

9  
10 Plaintiff and Defendant are in the process of obtaining the necessary experts in this case  
11 and after the experts complete the review of the materials provided, Plaintiff will provide  
12 written discovery to the Defendant. This action involves complex medical issues that need to be  
13 further evaluated by experts. The parties have identified the necessary discovery in this case,  
14 which will take longer than the October 1, 2010 discovery cut-off date.  
15

16 **I. DISCOVERY PROPOUNDED BUT NOT COMPLETED**

17 The Defendant's have served written discovery upon the Plaintiff. Plaintiff is in the  
18 process of supplementing her responses. Plaintiff will initiate written discovery after the experts  
19 have completed their review of the medical records and other materials.  
20

21 **II. DISCOVERY THAT REMAINS TO BE COMPLETED**

22 **Depositions**

23 1. The parties anticipate that the Plaintiff will take the depositions of  
24 employees/officers of Defendant American Medical Systems, Inc., and believe three to four  
25 witnesses will be deposed. Plaintiff will also take the deposition of Defendant's expert(s).  
26

27 2. The Defendant will take the deposition of the Plaintiff and her surgeon, Jeffrey  
28 Zapinsky, M.D. Defendant will also take the deposition of Plaintiff's expert(s).

1 **III. PROPOSED SCHEDULE FOR COMPLETING REMAINING DISCOVERY**

2 The parties propose the following schedule for the remaining discovery:

3 1. The current discovery cut off be continued through and including January 3,  
4 2011  
5 xxx and any discovery extension request shall be due on or before December 31, 2010.

6 2. The parties shall submit their expert disclosures on or before November 1, 2010.

7 3. The parties shall submit their rebuttal expert disclosures on or before December  
8 1, 2010.

9 4. The parties shall file interim status reports as required by LR 26-3 on or before  
10 November 1, 2010.

11 5. All pretrial motions, including, but not limited to, discovery motions, motions to  
12 dismiss, motions for summary judgment, and motions in limine shall be filed and served no  
13 later than February 2, 2011  
14 later than February 2, xxxx such date being 30 days after the close of discovery.

15 6. The joint pretrial order shall be filed with the Court no later than March 4, 2011,  
16 such date being 30 days after the date set for filing dispositive motions.

17 Dated this 30<sup>th</sup> day of June, 2010.

Dated this 30<sup>th</sup> day of June, 2010.

18 MURPHY, SMALL & ASSOCIATES

19 ALVERSON, TAYLOR, MORTENSEN &  
20 SANDERS

21  
22 /s/ Michael R. Small  
23 PATRICK J. MURPHY, ESQ.  
24 Nevada Bar No. 1222  
25 MICHAEL R. SMALL, ESQ.  
26 Nevada Bar No. 7519  
27 1100 E. Bridger Ave.  
28 Las Vegas, NV 89101  
Facsimile: (702) 259-4748  
Attorneys for Plaintiff

/s/ LeAnn Sanders  
LeAnn Sanders, Esq.  
Nevada Bar No. 390  
7401 W. Charleston Blvd.  
Las Vegas, NV 89117  
Facsimile: (702) 385-7000  
Attorney for Defendant

**ORDER**

**IT IS SO ORDERED.**

DATED this \_\_\_\_\_ of \_\_\_\_\_, 2010.

\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE

## Electronic Filing

---

**From:** cmecf@nvd.uscourts.gov  
**Sent:** Wednesday, June 30, 2010 3:10 PM  
**To:** cmecfhelpdesk@nvd.uscourts.gov  
**Subject:** Activity in Case 2:09-cv-01981-PMP-LRL Austin-Fink v. American Medical Systems, Inc. Proposed Discovery Plan/Scheduling Order

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

United States District Court

District of Nevada

## Notice of Electronic Filing

The following transaction was entered by Small, Michael on 6/30/2010 at 3:10 PM PDT and filed on 6/30/2010

**Case Name:** Austin-Fink v. American Medical Systems, Inc.

**Case Number:** 2:09-cv-01981-PMP-LRL

**Filer:** American Medical Systems, Inc.  
Carol S. Austin-Fink

**Document Number:** 18

### Docket Text:

**PROPOSED Discovery Plan/Scheduling Order filed by Defendant American Medical Systems, Inc., Plaintiff Carol S. Austin-Fink. (Small, Michael)**

**2:09-cv-01981-PMP-LRL Notice has been electronically mailed to:**

Jennifer Kissel efile@alversontaylor.com

LeAnn Sanders efile@alversontaylor.com

Michael R Small farlite@aol.com

Patrick J Murphy murphylaw@msn.com, debbie@patrickmurphylaw.com

**2:09-cv-01981-PMP-LRL Notice has been delivered by other means to:**

6/30/2010



The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1101333072 [Date=6/30/2010] [FileNumber=4810806-0]  
][76b6fc5b60f1e337cc323c4051bbca0488f48a2a516ae24283cdefc973a11b32047  
e9ebac256844a3852ac945a333033f72c2e9f0fa0593159cf82d0fbd3a546]]